



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2002-26**

August 21, 2002

Laurent & Barbara Boisvert
PO Box 135
Lyndeborough, NH 03082

RE: DES Wetlands File #2002-01380, Johnson Corner Rd, Lyndeborough

Dear Mr. and Mrs. Boisvert

On August 12, 2002, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Lyndeborough Tax Map 4 as Lot 49 and 57 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

During the inspection the following deficiencies were documented:

1. At the cable bridge crossing over Curtis Brook, there were two areas to the right of the cable bridge (on opposite sides of Curtis Brook) where the stream bank was devoid of vegetation and where the soil was exposed and rutted.
2. At the second bridge crossing over Curtis Brook (where the ATV club had begun repairing/rebuilding the bridge) on the south side of Curtis Brook, the end of the bridge was lying in the bank of the stream supported by a few rocks.
3. The banks to the right of the south side of the bridge were devoid of vegetation and the soil was exposed and rutted. Immediately below this area, sediment deposition was observed in the quiet pools of water in the edge of Curtis Brook. This was also observed on the north side of Curtis Brook to a lesser degree.

The relevant issues outlined in items 1-3 above, consist of rutting (dredge) and erosion in the banks of Curtis Brook and the construction of the footing or abutments for the bridge.

RSA 482-A:3(I) states that no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from the department. Wt 101.28 states that "dredge" means to dig, excavate, or otherwise disturb the contour or integrity of sediments in the bank or bed of a wetland, a surface water body, or other area within the department's jurisdiction.

The rutting in the banks of Curtis Brook constitutes a violation of RSA 482A-3(I).

In response, you are requested to take the following actions:

1. Immediately stabilize all exposed soils referenced in items 1-3 with straw mulch. Straw mulch can be obtained in the form straw matting. This can be applied right to the water's edge and will help decrease the potential for sediment deposition into Curtis Brook. Submit photo documentation within five days that the relevant areas have been stabilized.
2. Please advise any personnel working in or using the areas referenced in items 1-3 from crossing the streams with ATVs or any other OHRV.
3. Within five days retain a qualified environmental professional to develop a plan to restore the areas referenced in items 1-3. Because the area in item 2 directly in front of the bridge is exposed and close to the brook, we recommend that it be included in the restoration plan. While we were at the site, we briefly discussed with you the possibility of a water bar to intercept and redirect runoff. A water bar or other diversionary method should be employed to ensure that there is no sediment deposition into Curtis Brook.
4. Within twenty days, submit the restoration plan prepared by the qualified environmental professional to DES for approval.
5. Determine how much stone or other material will be required to adequately support the existing bridge. If the total amount of material to be placed in the bank of Curtis Brook exceeds 3,000 square feet, an application for a permit (Standard Dredge and Fill) for the work should be submitted to the DES Wetlands Bureau. Please note that Wt 303.04 (z) states that to be considered a minimum impact project, trail construction activities must be in accordance with the "Best Management Practices for Erosion Control During Trail Maintenance and Construction", 1996, involve less than 3,000 square feet of impact to wetlands per crossing, and cross stream channels less than 10 feet wide. DES measured the width of Curtis Brook under the bridge and found that the brook channel exceeded 10 feet - the threshold for the trails notification process. Any work in or on the banks of Curtis brook related to this crossing cannot be permitted using the Notification of Trail Development. You must use the Standard Dredge and Fill form.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Arlene Allen, Compliance Specialist
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 271-2147.

Sincerely,

COPY

Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL _____

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit ✓
Mark Harbaugh, DES Enforcement Attorney ✓
Lyndeborough Conservation Commission
Lyndeborough Board of Selectmen
David Killoy, USACOE
David Pinsonneault, esq., Winer and Bennett